REMARKS

By this paper, claims 1-4, 6-7, 11-13, and 16-43 remain pending. Claims 1-2, 11-12, 16, are amended. No new matter has been added by virtue of these amendments. Claims 1-4, 6-7, 11-13, 16-24, and 26-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Application Publication No. 2002/0083067 ("Tamayo") in view of U.S. Patent No. 7,181,412 ("Fulgoni"). The Applicants respectfully submit that each of the pending claims is in condition for allowance as Tamayo in view of Fulgoni fail to disclose all of the features of the claims, either alone or as combined.

IN-PERSON EXAMINER INTERVIEW SUMMARY

Representatives of the Applicants, Nair Flores and David Ishimaru, and attorneys for the Applicants, Nathan Greene and Scott Brim, conducted an in-person examiner interview on June 9, 2008. Supervisor Van Doren participated along with the newly assigned Examiner Johnna R. Loftis. The Applicants thank the examiners for their time and the opportunity to discuss the application. Discussed was the currently outstanding office action of which the Applicants were not aware until the interview. The currently office action introduced the new Fulgoni reference, and so this was also discussed briefly. The Applicants and the examiners also discussed potential claim amendments that could be persuasive to get over the currently cited art.

REJECTIONS UNDER 35 U.S.C. § 103(a)

A. Independent Claims 1, 11, 16, and 38

All the independent claims were amended to clarify that the aggregate behavior to be modeled is of "an on-line and off-line population" as a function of on-line interest data so that a prediction of aggregate behavior of the on-line and off-line population related to, but different than, a subject may be generated. So, while on-line interest data is gathered online, e.g., over the internet, the modeling system may be configured to predict aggregate behavior of a population as a whole, including users that are on-line and off-line. For instance, some people may see a movie that do not have internet connection and from whom on-line interest data has not been gathered. The amendments to clarify that the population is on-line and off-line as a whole finds support at least at page 7, lines 19-33 to page 8, line 2; page 8, lines 9-10 and 14-17; page 17

lines 19-31. Prediction of total box office sales of a movie, for instance, is an off-line metric to see how the movie performs with respect to the entire population of movie-goers.

The Office Action concedes that Tamayo does not "disclose predicting aggregate behavior of the population related to the subject." *E.g.* Pages 4, 6. As argued in the Supplemental Response filed by the Applicants on March 18, 2008, Tamayo exclusively discloses prediction of individual behavior as users access Tamayo's system, e.g., when browsing to related internet sites. Indeed, in paragraphs [0069] and [070], Tamayo actually teaches away from predicting aggregate economic activity of a population as a whole.

Fulgoni, therefore, is cited to fill the gap in disclosure of Tamayo. Fulgoni, however, discloses exclusively prediction of on-line behavior, which would only be related to the subpopulation as referred to in the independent claims. For instance, claim 1 refers to "the aggregate on-line interest data [is] based on passive observation of on-line behavior of a subpopulation." The focus of Fulgoni is in its title, "Systems and Methods for Collecting Consumer Data." The great focus is on collecting or mining consumer data for storage an analysis. While the Office Action does not cite to a particular part of Fulgoni for filling the disclosure gap, the Examiner pointed to column 14, lines 3-31 during the in-person examiner interview. This is really the only section of Fulgoni that discloses profiling or generating scoring models with the data for use in prediction. That modeling, however, is explicitly disclosed "to predict the overall probability of a certain internet activity." *See also* Office Action Pages 4, 7 ("It would have been obvious to one of ordinary skill in the art at the time of the invention to predict[ ] aggregate behavior related to the subject [ ] in order to generate a prediction of overall probability of internet activity.") Another passage of Fulgoni refers to projecting revenue for a website at column 13, lines 34-40, but this is an exclusively online prediction and also fails to disclose aggregate behavior that is related to, but different than, the aggregate behavior to be modeled. Fulgoni is very different, therefore, in predicting only internet activity based on the gathered online behavioral or transactional data.

Accordingly, for at least the above reasons, the Applicants respectfully submit that claims 1, 11, 16, and 38 are patentable over Tamayo in view of Fulgoni, and respectfully request the rejection be withdrawn.

B. Dependent Claims

Dependent claims 2-4, 6-7, 12-13, 17-24, 26-37, and 39-43 depend, either directly or indirectly, from independent claims 1, 11, 16, and 38 and should be allowed for the reasons set out above for the independent claims.

Pending claims 1-4, 6-7, 11-13, 16-24, and 26-43, as amended, are patentable. Applicant respectfully requests the Examiner grant allowance of this application. The Examiner is invited to contact the undersigned attorney for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,

/Nathan O. Greene/
Nathan O. Greene
Registration No. 56,956
Attorney for Applicant

June 19, 2008
BRINKS HOFER GILSON & LIONE
405 South Main Street, Suite 800
Salt Lake City, Utah 84111-3400
(801) 355-7900